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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,332

01/26/2004

Takashi Ikeda

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04/18/2006

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EXAMINER

AUGUSTIN, EVENS J

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,332

Applicant(s)

IKEDA ET AL.

Examiner

Evens Augustin

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

This is in response to an amendment file on 1/26/2006 for letter for patent filed on 1/26/2004. In the amendment, claims 16-18 have been added. Claims 1, 5-9 and 13 have been amended. Claims 1-18 are pending in the letter.

Response to Arguments

1. The United States Patent and Trademark Office has fully considered the applicant's arguments on 1/26/2006, but has not found those arguments to be persuasive.

The applicant's invention as claimed is regarding a method/apparatus for purchasing or previewing songs. The USPTO interprets the notion of content/song reproduction as being synonymous with content/song playback.

Argument 1: Prior Art does not teach the aspect of content information being previewed as being the same or concurrent with content for subsequent purchased or client computer

Response 1: The prior art by Wiser et al. teach and invention that provides a secure online music distribution system that provides consumers with flexibility and ease of use in the selection, previewing, downloading, and transporting of audio and other digital media over the Internet, and that provides for security of the media throughout the distribution system. Specifically, Wiser et al.'s invention stores media files for **previewing and purchasing** by users (column 11, lines 23-25). The system allows a potential user to **preview a portion of a song** (column 7, lines 61-62, column 11, 39-44), to be played or stored on a client system. The client system can be any number of client devices (column 5, line 48) with media player for playback and a browser (column 5, line 67). The invention contains a server apparatus that store

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information regarding the song (for example: song title, artist, preview, and purchase) (figure 8, column 14, lines 43-45). The prior art also stores information such duration of the preview or song, song/preview size, starting and ending times of the song/preview, fade-in and fade-out durations (usage right of content), all of which is transferred to the client system (column 15, lines 56-61). The **same interface** allows a user to **preview and purchase the same content** (figures 8 and 14) to be delivered and stored on the client device (column 11, 39-44).

It is also noted that the applicant, in arguing alleged shortcomings of the prior art, refers to the mechanics of the prior art regarding the actual process previewing and purchasing songs for playback. The independent claims, primarily, are regarding the aspects of **storing** song data, **referring** to the preview or purchase data, **reading** the preview information and **controlling** the preview information by limiting the playback time of the content.

Argument 2: Prior art does not provide the aspect of specifying the content not to be reproduced

Response 2: The system allows a potential user to **preview a portion of a song** (column 7, lines 61-62, column 11, 39-44), to be played or stored on a client system. The information about the duration of a song to be previewed tells a user that a 30 second preview of a 5-minute song will be reproduced or played for 30 seconds. The remaining 4 minutes and 30 seconds of the songs will not be heard or reproduced.

Application stands finally rejected.

Status of Claims

2. Claims 1-18 have been examined.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Wiser et al. (U.S. 6385596).

As per claims 1-18, Wiser et al. disclose a computer system that provides a secure online music distribution system that provides consumers with flexibility and ease of use in the selection, previewing, downloading, and transporting of audio and other digital media over the Internet, and that provides for security of the media throughout the distribution system. The computer system comprises of the following:

- Client/server architecture with a clients computer system connected with a server online music distribution system that provides consumers with flexibility and ease of use in the selection, previewing, downloading, and transporting of audio and other digital media over the Internet, and that provides for security of the media throughout the distribution system (column 3, lines 5-20) – *Claims 1, 5*

- The media player is the mechanism by which the consumer plays back purchased or previewed audio data, and by which the consumer digitally records purchased media data files to a further external memory, such as a CD-Recordable, CD-RW, Mini-Disc, flash memory, or the like. The media player provides user interface controls for viewing lists of purchased and stored media data file, viewing cover and promotional art and graphics, reading lyrics and other liner information, organizing play lists and tracklists, and other music database management features (column 10, lines 1-16) - *Claim 5*
- System limiting the reproduction/copies of content (column 3, lines 33-50, column 4, lines 42-50, column 7, lines 27-37) – *Claims 1, 5, 9*
- The system allows a potential user to preview a portion of a song (column 7, lines 61-62, column 11, 39-44), to be played or stored on a client system. The client system can be any number of client devices (column 5, line 48) with media player for playback and a browser (column 5, line 67) running, for example, on Apple or Microsoft operating systems (column 6, lines 8-14). The invention contains a server apparatus that store information regarding the song (for example: song title, artist, preview, and purchase) (figure 8, column 14, lines 43-45). The prior art also stores information such duration of the preview or song, song/preview size, starting and ending times of the song/preview, fade-in and fade-out durations (usage right of content), all of which is transferred to the client system (column 15, lines 56-61) - *Claims 1, 5, 9, 16-18*
- The same interface allows a user to preview and purchase the same content (figures 8 and 14) to be delivered and stored on the client device (column 11, 39-44) - *Claims 1, 5, 9, 16-18*

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- The system enables prospective buyers of an audio content to clip portions of content, with a defined start and stop time for sampling/reproduction (column 7, lines 50-55) – *Claims 1, 2, 6, 10*
- Generation usage rights associated with the content (column 10, lines 45-47, column 11, lines 1-6) – *Claims 1, 5, 9*
- Allowing users to store content in their hard disks (column 11, lines 42-45) - *Claims 1, 5*
- The media player sets up communication channel with the specified delivery server and passes in the voucher ID and the media ID and bandwidth requirement. The media player also provides port information identifying which ports it is to receive the streamed audio data from the delivery serve (column 15, lines 33-43) - *Claims 3, 7, 11*
- The audio content contains a mechanism that allow is to provide different functions such as quality levels on playback, using different sampling rates and compression levels. The mechanism also includes optional functions such as restrictions on playback and record to external devices or files (column 7, lines 4-16) – *Claims 4, 8, 12*
- An online music distribution system in accordance with the present invention includes a variety of cooperative components that communicate over a public network, preferably the Internet. These components include a content manager, one or more delivery servers, a media data file system and media information database. HTTP servers facilitate Internet communications by the system. Any number of individual purchasers use client computer systems with Web browsers and media players (column 3, lines 9-19) – *Claim*

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- Server is responsible for receiving requests from a media player to preview or purchase a media data file containing audio data (column 9, lines 56-58) - *Claim 13*
- Server transmitting the requested media file to the user (column 9, lines 60-67) - *Claim 13*
- The media files transmitted the user contains descriptive text, such as title, artist, lyrics, and liner notes, promotional art image data, and cover art image data (column 6, lines 59-62), and also contains mechanism to ensure usage rights are executed (column 7, lines 4-16) – *Claim 13*
- Once the audio is has been purchased, the server gives the user the appropriate licensing and updated its records accordingly (column 19, lines 11-49) - *Claim 14*
- The system enables prospective buyers of an audio content to clip portions of content, with a defined start and stop time for sampling/reproduction (column 7, lines 50-55), The media player sets up communication channel with the specified delivery server and passes in the voucher ID and the media ID and bandwidth requirement. The media player also provides port information identifying which ports it is to receive the streamed audio data from the delivery serve (column 15, lines 33-43). The audio content contains a mechanism that allow is to provide different functions such as quality levels on playback, using different sampling rates and compression levels. The mechanism also includes optional functions such as restrictions on playback and record to external devices or files (column 7, lines 4-16) – *Claim 15*

Conclusion

5. **THIS ACTION IS MADE FINAL.** Any new grounds of rejection is due to the applicant's amendment. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evens Augustin whose telephone number is 571-272-6860. The examiner can normally be reached on Monday thru Friday 8 to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammel can be reached on 571-272-6712.

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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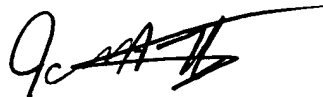
Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 571-272-6584.

Evens J. Augustin

April 12, 2006

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JAMES A. REAGAN
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Jc Reagan', with a long horizontal stroke extending to the right.